

The 4th March, 1980

No. 11(112)-3Lab-80/2795.— in pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s Hindustan Syringes Pvt. Ltd., N.I.T., Faridabad.

BEFORE SHRI GURMESH PARKASH, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 32 of 1979

between

Shri Prithvi Singh, workman and the management of M/s. Hindustan Syringes Pvt. Ltd., N.I.T., Faridabad.

Present:—

Shri Amar Singh Sharma, for the Workman.

Shri R. C. Sharma, for the management.

AWARD

This reference No. 32 of 1979 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. FD/ 3-79, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication the dispute existing between Mr Prithvi Singh, workman and M/s Hindustan Syringes Pvt. Ltd., N.I.T. Faridabad. The term of the reference was:—

Whether the termination of services of Shri Prithvi Singh was justified and in order? If not, to what relief he is entitled?

2. After receiving this reference notices were issued to both the parties. The workman appeared before this Court through his authorised representative and filed a claim statement. On the other hand the management appeared before this court through their authorised representative Shri R. C. Sharma and filed a written statement. The case of the workman is that he was employed in this concern on 8th March, 1979 as a permanent Helper on a permanent job and his wages were Rs 215 per mensem. The further allegation was that he was terminated wrongfully, illegally and without any notice, from his service on 7th October, 1979, that is after just 6 months from his appointment. The case of the management is that this workman was employed

by them as a Helper on 8th March, 1979, on probation for the period of 6 months and after 6 months that is on 7th September, 1979, his services was terminated because his work was not satisfactory and was also not upto the satisfaction of the management. On the pleadings of the parties following issues were framed by me on 6th February, 1980:—

- (1) Whether the workman was on probation and not a permanent employee? If so, to what effect?
- (2) Whether the termination of the services of the workman is justified and in order? If not, to what relief, he is entitled?

3. The management examined their Managing Director, Mr Narender Nath as MW 1 and filed some documents also. The workman examined himself as WW1 and closed his evidence.

4. MW 1 Mr. Narender Nath deposed before this court that this workman was appointed by them on 8th March, 1979, as a Helper on probation and the appointment order on a prescribed form is MW 1/A. He stated that after this order on the same day a letter was issued to this workman which is MW 1/B and in this letter it has been specifically written that the services can be terminated either during or at the end of the initial or extended probation period at any time without any notice and without assigning any reasons. This letter Ex. MW 1/B bears the signature with date of this workman. The workman who examined himself as WW 1 stated that he was terminated by this management without any notice and due to his trade union activities. He stated that at the time of termination he was in receipt of E.S.I. facilities for an accident which he met while he was in service in this management. Now I will decide this case issuewise.

ISSUE NO. 1.

The appointment order which is on a printed form is Ex. MW1/A. In this form it has been very clearly written at the end between point 'A-1 to A-2 that the appointment of this workman is as a Helper on probation for the period of three months which shall be extended for three more months in case he was not removed from the service and this order also bears at point 'C' the signature with date of the workman. Similarly in the letter Ex. MW 1/B, which was issued to this workman at the time of his appointment it is clearly written that the services

of this workman can be terminated either during or at the end of the initial or extended probation period at any time without any notice and without assigning any reasons. This letter also bears the signatures with date of this workman. From the above 2 Exs., it has become very much clear that the service of the workman was on probation in this management. It will be relevant at this stage to write down the law laid down by the Hon'ble Supreme Court of India. In the case *Express News Paper Limited v/s Labour Court, Madras, 1964 (1) LLJ page 9*:

There can, in our opinion, be no doubt about the position in law that an employee appointed on probation for six months continues as a probationer even after the period of six months if **at the end of the period** his services had either not been terminated or he is confirmed. It appears clear to us that without anything more an appointment on probation for six months gives the employer no right to terminate the service of an employee before six months had expired except on the ground of misconduct or other sufficient reasons in which case even the services of a permanent employee could be terminated. At the end of the six months' period the employer can either confirm him or terminate his services, because his service is found unsatisfactory. If no action is taken by the employer either by way of confirmation or by way of termination, the employee continues to be in service as a probationer.

6. So keeping in view the above law it has become very much clear that the services of this workman can be terminated by the management just after the expiry of his probation period and in this case the management terminated his service just after the expiry of his probation period. So this termination cannot be said illegal.

7. The workman raised another point that under section 73 of E.S.I. Act, 1948 he can not be terminated because he was in receipt of disablement benefit. It will be beneficial to write down section 73(1) of E.S.I. Act, 1948:

No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee

is in receipt of sickness benefit or maternity benefit, nor shall be, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

Before going in discussions on this point it will also be beneficial to write down the law laid down by the Hon'ble Supreme Court in the case 1963(II) LLJ at page 638 *M/s Buckingham and Carnatic Company Ltd. v/s Venkatayya and another*:

Thus, there can be no doubt that the punitive action which is prohibited by S. 73(1) is not confined to punitive action proceeding on the basis of absence owing to sickness; it is punitive action proceeding on the basis of all kinds of misconduct which justifies the imposition of the penalty in question. What S. 73(1) prohibits is such punitive action and it limits the extent of the said prohibition to the period during which the employee is ill.

There is another aspect of this question to which it is necessary to refer. Section 73(1) prohibits the employer from dismissing, discharging, reducing or otherwise punishing an employee. This seems to suggest that what is prohibited is some positive action on the part of the employer, such as an order passed by him either dismissing, discharging or reducing or punishing the employee. Where termination of the employee's services follows automatically either from a contract or from a standing order by virtue of the employee's absence without leave for the specified period, such termination is not the result of any positive act or order on the part of the employer, and so, to such a termination the prohibition contained in S. 73(1) would be inapplicable.

8. In the book the Industrial Law by Shri P. L. Malik in 1968 addition at page 248 in para 4th it is written:

The clause "during the period the employee is in receipt of sickness benefit" refers to the period of his actual illness, and requires that for the said period of illness, sickness benefit should have been received by him. It is quite clear that in a large majority of cases, sickness benefit would be applied for and received by the employee after his sickness is over, and so, to hold that the period there referred to is the period during which the employee must be ill and must also receive sickness benefit, would make the section wholly unworkable. In this case the Supreme Court rejected the contention that the clause "during the period the employee is in receipt of sickness benefit" could cover the period during which the sickness benefit is actually received by him and so if during period of the employee's illness itself no sickness benefit had been received by him, Section 73(1) is wholly inapplicable.

9. How it will be proper to see whether keeping in view the Law laid down by the Hon'ble Supreme Court, the termination of this workman is illegal, first of all the workman in this case has not proved at all whether he was in receipt of disablement benefit. Neither in demand notice nor in claim statement it is written that he was at the time of termination in receipt of disablement benefit under E.S.I. Act. He orally stated this when he was examined as WW 1. He could summon the record regarding this benefit from the E.S.I., authorities which could have bately proved his contention but he choosed not to call this record for the reasons best known to him. In the absence of this record it is difficult to accept oral statement of WW1 specially when not even a single word is written regarding this in claim statement. So it can not be said that at the time of termination this workman was in receipt of disablement benefit. Above all the service can be terminated under contract even if the workman is in receipt of disablement benefit under E.S.I. Act. Here in the contract which was made at the time of appointment which is Ex. MW 1/B it is clearly written

that after or before probation period the services can be terminated without assigning any reasons. So this plea also does not help the workman. I therefore, hold that the workman was not a permanent employee but his services was on probation for 6 months and the management is justified in terminating his services after the expiry of 6 months for his non-satisfactory work. So I decide issue No. 1 in favour of the management.

ISSUE No. 2 :

Keeping in view my findings on issue No. 1 it has become clear that the termination of the services of the workman is justified and in order. So I also decide issue No. 2 in favour of management against the workman.

10. I thus relying on my findings on issue No. 1 and 2 hold that the termination of the services of the workman is justified and in order and he is not entitled for any relief.

Dated the 27th February, 1980.

GURMESH PARKASH,

Presiding Officer,
Labour Court, Haryana.
Faridabad.

Endst. No. 349, dated the 27th February, 1980.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

GURMESH PARKASH,

Presiding Officer,
Labour Court, Haryana.
Faridabad.

No. 11(112)-3Lab-80/4134.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman and the management of M/s. Frick India Limited, Main Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 330 of 1978

between

SHRI SAFI AHMED WORKMAN AND
THE MANAGEMENT OF M/S. FRICK
INDIA LIMITED, MAIN MATHURA
ROAD, FARIDABAD.

Present:

Shri Bhim Singh Yadav, for the
workman.

Shri S. L. Gupta, for the management.

AWARD

1. By order No. ID/FD/90/78-37651, dated 14th August, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Frick India Limited, Main Mathura Road, Faridabad and its workman Shri Safi Ahmed, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Safi Ahmed was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed pleadings. On the pleadings of the parties, following issues were framed on 5th February, 1979:—

(1) Whether the workman was a probationer? If so, to what effect?

(2) If issue No. 1 is not found in favour of the management, whether the termination of services of Shri Safi Ahmed was justified and in order? If not, to what relief is he entitled?

(3) Whether the workman is gainfully employed? If so, to what effect?

And the case was fixed for the evidence of the management. The management

examined Shri Ashok Kumar Bhatia their Time Office Incharge as MW 1 and closed their case. Then the case was fixed for the evidence of the workman. The workman examined himself as WW 1 and closed his case. Then the case was fixed for arguments, which have been heard. I now give my finding issueswise:—

3. MW 1 proved Exhibit M 1 to M 10 which are application for appointment and appointment letter, merit reading report of the workman, remarks of Tool Room Engineer. Exhibit M 4 is extension letter. The work of the workman was unsatisfactory. The workman remained absent also. Exhibit M 5 is warning letter. Exhibit M 7 is another extension letter. The work of the workman was unsatisfactory and the workman did not improve upon his work. Exhibit M 11 and M 12 are conciliation proceedings and reports. In cross examination he stated that the workman joined his duty first on 16th February, 1977 and the appointment letter was issued on 25th February, 1977. He also proved Exhibit M 13 and M 14. He denied a suggestion that the management got reports of their Officers regarding unsatisfactory work of the workman by persuading that they want to get rid of the workman. The workman stated that he was appointed on 16th February, 1977. His signatures were obtained on the appointment letter 15-20 days afterwards. His signatures were obtained for two or three times. His services were terminated on 18th February, 1978. He was not charge-sheeted. He performed duty on 14th and worked overtime for three hours and then left for his home. 15th was the rest day. On reaching home he felt unwell. He got private treatment then he went to ESI and he handed over the medical certificate in the factory on 16th. He got proved Exhibit W 1 to W 6. In cross examination he admitted his address as given on Exhibit M 4 and M 13 and M 14. He further admitted that he did not complain to any authority including the management and the Labour Department. He admitted his signatures on Exhibit M 2. He admitted the signatures on all the documents produced by the management. He could not give any

other instance of the like-nature. He denied that he had deposed all false regarding medical service of ESI. Exhibit M 12 is conciliation proceedings. Exhibit M 11 is comments of the management filed before the Conciliation Officer in conciliation proceedings. Exhibit M 10 is letter from the management to the workman extending his term of probation in order that the workman could improve upon his work but despite that his work remained unsatisfactory and terminated the services of the workman. Exhibit M 9 is another letter of probation period extending by three months with effect from 16th November, 1977. Exhibit M 8 is recommendation of extension of probation period for three months. Exhibit M 7 is again extension order for three months from 16th August, 1977. Exhibit M 6 is again recommendation for extension of probation period for three months. Exhibit M 5 is a letter to the workman that he absented unauthorisedly on 3d July, 1977. Exhibit M 4 has also extended the probation period for three months from 16th May, 1977. Exhibit M 3 is again recommendation to that effect. Exhibit M 2 is appointment letter in which it is mentioned that the workman was appointed on probation for three months. It is dated 25th February, 1977. with reference to the application for appointment dated 16th February, 1977. Exhibit M 1 is application for employment. Exhibit M 13, M 14 are registered letters received back undelivered and A.D. form sent by the management to the workman. Exhibit W 2 is postal receipt that some letter registered was sent to the management by the workman. Exhibit W 3 is its A.D. form acknowledging receipt. Exhibit W 1 is a copy of demand notice. Exhibit W 4 is comments before the Conciliation Officer filed by the representative for the workman. Exhibit W 6 and W 5 are conciliation proceedings.

4. I have considered all oral and documentary evidence. The documentary evidence has proved that the workman was appointed on probation for three months and the probation period was extended three times by three months. Other

documentary evidence also prove that the work of the workman was not satisfactory in spite of warning by the management to improve upon his work. In this way the management terminated the services of the workman on 18th February, 1978 after completion of the probation period on 16th February, 1978 adjudging the work of the workman as unsatisfactory. The management was within their rights to terminate the services of the workman as per law. I, therefore, decide issue numbers 1 and 2 in favour of the management and against the workman. As a result of my finding on the issues, I answer the reference and give my award that the termination of services of the workman was justified and in order. He is not entitled to any relief.

Dated 22nd February, 1980.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 188, dated the 4th March, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3Lab.-80/4135.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Bhogals Manufacturers and Exporters of Sports Footwear, Delhi, Mathura Road, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 440 of 1978.

between

SHRIMATI PUSHPA DEVI LADY WORKER AND THE MANAGEMENT OF M/S BHOGALS MANUFACTURERS AND EXPORTERS OF SPORTS FOOTWEAR, DELHI MATHURA ROAD, FARIDABAD.

Present:—

Shri P. K. De, for the workman.

Shri J. S. Saroha, for the management.

AWARD

1. By order No. ID/FD/1/47-78/42052, dated 18th September, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Bhogals Manufacturers and Exporters of Sports Footwear, Delhi Mathura Road, Faridabad and its lady worker Smt. Pushpa Devi, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Smt. Pushpa Devi was justified and in order ? If not, to what relief is she entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 6th February, 1979:—

- (1) Whether the workman has abandoned his job by absenting herself ?
- (2) Whether the termination of services of the workman was justified and in order ?
- (3) Whether the dispute is not covered under section 2(a) of the Industrial Disputes Act ?
- (4) Relief.

And the case was fixed for the evidence of the management. The management examined Shri M. Bhardwaj, their Administrative Officer as MW-1 and closed

their case. Then the case was fixed for the evidence of the workman. The workman examined herself as WW-1 and closed her case. Then the case was fixed for arguments. Arguments have been heard. The facts of this case and of reference number 424 of 1978 are similar and the same. The workman in both the references are husband and wife. I have gone through all oral and documentary evidence and have considered the arguments advanced by the parties. I now give my findings issueswise:—

ISSUE No. 1

The case of the workman is that she reported back for duty after availing leave on 2nd June, 1978. The case of the management is that she absented from 16th May, 1978 to 27th May, 1978. She was appointed on 1st April, 1978 and on account of absence her name was struck off. The documents are Ex. M-1 to M-8. Ex. M-4 is postal receipt of a registered letter, dated 29th May, 1978 and M-5 is another postal receipt of the same date. Ex. M-3 is letter of the management to the workman dated 29th May, 1978, telling her that she was absent from 16th May, 1978 unauthorisedly. She should report back for duty within three days and she did not report for duty upto 28th May, 1978 and so her services were terminated. Ex. M-1 is another letter from the management to the workman dated 23rd May, 1978 sent by registered post receipt Ex. M-2 informing her that She was absenting from duty from 16th May, 1978 unauthorisedly without any leave and asking her to report back for duty within three days thereof and give explanation to the satisfaction of the management of the circumstances of her unauthorised absence. Ex. M-7 is comments of the management before the Labour-cum-Conciliation Officer, Ex. M-6 is A.D. form under which the worker lady received the letter of the management on 31st May, 1978 as she herself has signed it and put date. Ex. M-7 is the comments of the management before the Labour Officer. Ex. M-8 are conciliation proceedings. Ex. M-8 to M-12 are registered letters with A.D. form received back by the management

undelivered. The worker lady was appointed on 1st April, 1978 and her services were terminated on 29th May, 1978. There is no other evidence on the file. The worker lady stated that she was appointed in the year 1976 but that fact is not proved. The worker lady has also not proved her plea of leave, rather the management has proved her absence by Ex. M-1 dated 23rd May, 1978 and Ex. M-3, dated 29th May, 1978. The postal receipts are also on the file. The facts have been more elaborately discussed in reference number 424 of 1978 relating to her husband as both had left for their house together. The evidence prove that the worker lady had about 1½ months service at her credit and then she became absent unauthorisedly. She had no right what-so-ever. I decide issue number 1 in favour of the management.

ISSUE NO. 2

This issue does not arise. The management did not terminate the services of the worker lady rather the worker lady herself abandoned his job by remaining absent and having service of about 1½ months. This issue is decided accordingly.

ISSUE NO. 3

Issue No. 3 is decided in favour of the workman. The dispute is well covered under section 2(a) of the Industrial Disputes Act.

3. As a result of my finding on the issues, while answering the reference I give my award that the lady worker abandoned her job of her own and the management did not terminate her services. The lady worker is not entitled to any relief.

Dated the 22nd February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 189, dated 4th March, 1980.

Forwarded (four copies) to the
Secretary to Government, Haryana,

Labour & Employment Departments,
Chandigarh as required under section 15
of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3 Lab.-80/4136.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Bhogals Manufacturers and Exporters of Sports Footwear, Delhi, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 424 of 1978.

between

SHRI KALI SHANKER, WORKMAN
AND THE MANAGEMENT OF M/S
BHOALS, MANUFACTURERS AND
EXPORTERS OF SPORTS FOOT-
WEAR, DELHI, MATHURA ROAD,
FARIDABAD.

Present:—

Shri P. K. De, for the workman.

Shri J. S. Saroha, for the management.

AWARD

1. By order No. ID/FD/1/148-78/41673, dated 14th September, 1978, the Governor of Haryana referred the following dispute between the management of M/s Bhogals Manufacturers and Exporters of Sports Footwear, Delhi, Mathura Road, Faridabad and its workman Shri Kali Shanker, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Kali Shanker was justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 6th February, 1979:—

- (1) Whether the workman has abandoned his job by absenting himself?
- (2) Whether the termination of services of the workman was justified and in order?
- (3) Whether the dispute is not covered under section 2(a) of the Industrial Disputes Act?
- (4) Relief.

And the case was fixed for the evidence of the management. The management examined one Shri M. Bhardwaj Administrative Officer as MW-1, who stated that the workman was absent from 16th May, 1978 to 27th May, 1978. 28th May, 1978 was Sunday. He brought attendance register from which he proved the absence of the workman. He also stated that the workman had joined the services of the management on 1st April, 1978. The management wrote a letter to the workman Ex. M-1 and sent it by registered A.D. which was returned undelivered. The management wrote another letter also informing the workman that his services have been terminated. He proved all the documents Ex. M-1 to M-11. He had not brought appointment letter of the workman and he was working with the management for the last four years. He denied a suggestion that the workman and his wife Smt. Pushpa Devi had gone on leave after it was sanctioned on 19th May, 1978. He also denied that the workman reported for duty on 2nd June, 1978. The management closed their case. Then the case was fixed for the evidence of the workman, who obtained 7-8 adjournments and examined himself as WW-1. The workman stated that he joined the services of the management on 1st June, 1976 and the management terminated his services when he came back after availing leave for fifteen days which had

been sanctioned. He had received a telegram from his house that his mother was ill. He stated that he got sanctioned leave on 18th May, 1978, after performing his duty and went to resume his duty on 2nd June, 1978, but was not given duty. He went on repeating going to the factory upto 4th June, 1978, but to no effect. He stated that there were several instances of this kind in this factory. He admitted that he was getting his wages on the wages register. He did not know what was wage slip. He proved Ex. W-1, the ESI card. He denied that lower portion of Ex. MX is given to the workman on sanction of leave. The lower portion was not there on Ex. MX. He further stated that he had demanded sanction order of leave from Shri Arvind the owner, who told him that there was no such practice and he did not give him duty. The workman closed his case. I have gone through all the evidence oral as well documentary. Ex. M-1 is a letter of the management to the workman, dated 22nd May, 1978, that the workman was absenting from duty from 16th May, 1978, unauthorisedly without any leave. This letter asked the workman to report back for duty within three days. Ex. M-2 and M-3 are registered envelope and A.D. form which were received back by the management in which Ex. M-1 was sent. Ex. M-4 is postal receipt of this registered letter dated 23rd May, 1979. Ex. M-5 is termination order mentioning that the workman was absent from 16th May, 1978. It was sent in Ex. M-7 registered letter with A.D. form Ex. M-8, the postal receipt pertaining thereto Ex. M-6, dated 30th May, 1978. Ex. M-9 is a copy of comments filed by the management before the Labour Officer. This corroborates the stand of the management. Ex. M-10 is a copy of conciliation proceedings. The statements recorded therein of the representatives for both the parties are consistent with their stand before this Tribunal. Ex. M-11 is a letter which seems to have been written by the wife of the workman in which it is stated that in case his father-in-law wanted to call them they should send a telegram as there was no likelihood of sanction of leave, as there were some union activities. She asked for advice. She also asked

whether they should leave service, as leave was not going to be sanctioned. This letter has again requested that they should send a telegram as soon as possible. Those letters also suggest the subject-matter of the telegram that he should write to them sooner. He again repeated that his father-in-law should send telegram and write in that that both should come. This letter might be of the workman but at one place, the gender of the writer is such that it seems to be of the feminine gender. It would be not out of place to mention that a dispute of the wife of this workman with the same management is also under adjudication. The case of the wife of the workman is also proceeding before this Tribunal simultaneously with this reference. But that is a separate reference, hence a separate award is being given in that reference. The number of that reference is 440 of 1978. Ex. W-1 is ESI identity card in which the name of the workman is written. The name of his wife is also written but the name of the management does not find place in it, nor the workman connected it with the management in his evidence. Ex. MX is leave application form of some other workmen which the management produced to prove that the workmen apply for leave on such forms and the lower portion of such forms on sanction of leave is given to the workmen. This form does not contain the lower portion which suggests that the lower portion after sanction, which is meant for sanction order for leave, had been given to the workman. Arguments have been heard. The workman absented from 16th May, 1978. He came back on 2nd June, 1978 for reporting duty. All the evidence before me proves that he was not sanctioned any leave and the workman proceeded without getting leave. The workman has not proved that he applied for leave and the same was sanctioned. Even he did not prove his application of leave. He could call for the record of the management but he did not. Moreover the contention of the workman that there was practice in this factory that the workman is not given any sanction order of leave, it is belied from Ex. MX. I,

therefore, give my finding on issue number 1 that the workman abandoned his job by absenting himself.

ISSUE NO. 2

Issue number 2 does not arise as the management did not terminate the services of the workman.

ISSUE NO. 3

Issue No. 3 is found against the management. The dispute is well covered under section 2(a) of the Industrial Disputes Act.

3. As a result of my finding on the issues, I answer the reference and give my award that the workman himself abandoned his job by remaining absent and the management did not terminate his services. The workman is not entitled to any relief.

Dated the 22nd February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 190, dated 4th March, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3Lab-80/4145.—In pursuance of the provision of section 17 the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Alfa-mate Pvt. Ltd., Sector 24, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 169 of 1979.

between

Shri Ram Lal Yadav, workman and the management of M/s. Alfamate Private Limited, Sector 24, Faridabad.

Present

Shri B. M. Gupta, for the workman.

Shri W. C. Sharma,

for the management.

Shri R. N. Rai

AWARD

1. By order No. ID/58-79/22235, dated 22nd May, 1979, the Governor of Haryana referred the following dispute between the management of M/s Alfamate Private Limited, Sector 24, Faridabad and its workman Shri Ram Lal Yadav, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

"Whether the termination of services of Shri Ram Lal Yadav was justified and in order? If not, to what relief is he entitled?"

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 25th October, 1979.—

(1) Whether the termination of services of the workman is justified and in order?

(2) Relief.

And the case was fixed for the evidence of the management. The management examined their Administrative Officer Shri R. K. Sibbal as MW-1 and closed their case. Then the case was fixed for the evidence of the workman. The workman examined himself as WW-1 and closed his case. Then the case was fixed for the arguments. Arguments were heard. I, now give finding issueswise:—

ISSUE NO. 1:

MW-1 stated that the workman was appointed temporarily for three months only. The time of three months was extended on the request of the workman which he had made on the ground of family circumstances. He stated that the

workman was causing complaints which was reported to them,—vide Ex. M-2 and M-3. He stated that domestic enquiry was not held. He stated that the machine on which the workman was working was still in the factory. Another machine was also introduced. The machine worked when there were orders and did not work when there were no orders. The workman was asked verbally to explain the complaints. He also stated that the work for which the workman was employed had also come to an end. The workman stated that he was removed from service on 8th March, 1979, and that other turners had also been appointed by the management after his services were terminated. He stated that his work was satisfactory and he caused no complaint. He stated that he was permanent. He admitted that the management did not issue wageslip to the temporary workman but issued to permanent only and that he was Assistant Secretary of workers union. He also stated that a police case under section 107/151 C.R.P.C. was also against him. He admitted the signatures on Ex. M-1. Ex. M-1 is letter of appointment by which the workman was appointed temporarily for a period of three months. And according to Ex. M-1 his services were liable to be terminated without any notice and without assigning any reason and the workman shall have no say whatsoever against the decision of the management. According to Ex. M-1 the services of the workman shall stand automatically terminated on the expiry of the aforesaid period. By Ex. M-2 it has been reported to the management by the Supervisor that the workman was not working properly. His work was slow and careless due to which rejection occurred. The workman had been warned verbally by him several times but the workman showed no improvement. Similar is the complaint Ex. M-3. Ex. W-1 and W-2 are the conciliation proceedings. The workman was appointed,—vide Ex. M-1, dated 8th August 1978. His services were terminated on 9th March, 1979 after seven months, the workman was appointed temporarily. The workman had service of seven months only, i.e. less than one year. His case did not fall under section 25(f). I therefore, decide issue number 1 in favour of the management.

ISSUE NO. 2:

As a result of my finding on issue number 1, the workman is not entitled to any relief.

3. While answering the reference, I give my award that the termination of services of

Shri Ram Lal Yadav was justified and in order. He is not entitled to any relief.

Dated the 11th February 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad

No. 140, dated the 14th February, 1980.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3Lab-80/4146.—In pursuance of the provision of section 17 of the Industrial disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Bolton Industrial Corporation, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 113 of 1979

between

SMT SHOBHA SHARMA, WORKER LADY
AND THE MANAGEMENT OF M/S BOLTON
INDUSTRIAL CORPORATION, FARIDABAD

Present:

Shri P. K. De for the workman.

Shri R. C. Sharma. for the management.

AWARD

1. By order No. FD/1/12-79/14254, dated 27th March, 1979 the Governor of Haryana referred the following dispute between the management of M/s. Bolton Industrial Corporation, Faridabad and its workman Smt. Shobha Sharma, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of

sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services / of Shrimati Shobha Sharma, was justified and in order ? If not, to what relief is she entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 9th July, 1979:—

- (1) Whether the worker lady was a probationer ? If so, to what effect ?
- (2) Whether the termination of services of the workman was justified and in order ?
- (3) Relief.

And the case was fixed for the evidence of the management. The management examined their Manager Shri N. R. Khattar as MW-1 and closed their case. Then the case was fixed for the evidence of the workman. The worker lady examined herself as WW-1 and closed her case. Then the case was fixed for arguments. Arguments were heard. I now give my findings issueswise:

3. The worker lady was appointed as probationer,—vide Exhibit M-1, dated 12th January, 1978 for a period of six months which period expired on 11th July, 1978. Thereafter the management again extended the period of probation by three months,—vide Exhibit M-2, which period expired on 11th October, 1978. The worker lady's services were terminated with effect from 12th December, 1978 as per the demand notice i.e. worker lady remained in service for about two months more after expiry of the probationary period original as well as extended. Clause 2 of the letter of appointment reads that after completion of the probation period, the management considered the case on merits and if performance has been found satisfactory, will confirm the worker for which a separate letter shall be given. Clause 3 of the appointment letter further reads that the management shall have a right to terminate the services at any time without assigning any reason or giving any notice but during the period of probation. Other clauses of this letter Exhibit M-1 are not relevant. In this case the management had not terminated the services of the

worker lady during the period of probation, as probation period expired on 11th October, 1978 and she remained in service thereafter for two months more. It is not a case wherein the management can invoke clause 3 of the letter of appointment as that clause related to "during the period of probation". The management have also placed on file a copy of Certified Standing Orders. I do not find on this file any letter of the management or copy thereof by which the probation period was extended second time after 11th October, 1978. Clause 2 of rule 3 of the Standing Orders provide that the period of probation can be extended twice by three months. And if no orders of confirmation or removal are passed on the expiry of initial period of probation, the probation period shall be taken to have been automatically extended upto nine months. It further reads that if during a period between nine months and 12 months of probation, no order is based regarding confirmation or removal, the workman shall be deemed to have been automatically extended upto nine months. of removal has been passed on the expiry of 11 months. Clause 3 of the said rule is as is given similar to clause 3 of the appointment letter. I do not find any clause either in the Standing Orders or in the letter of appointment speaking regarding the nature of service during the period between nine months and twelve months. Neither the Standing Orders, nor letter of appointment speaks that a probationary shall remain a probationer for 12 months in all case. There is a discretion with the management that they can confirm the workman after the expiry of six months—initial, period of probation, at the expiry of nine months, if probation period extended expressly. The management can also remove the workman at any time during the period of probation as per the letter of appointment and as per the said Standing Orders. It is a case where the extended probation period expired on 11th January, 1978 and on 12th October, 1978 or on a day or two following, the management did not take any action expressly either for extending the period of probation or for confirming the workman. When the management did not extend the period of probation after 11th October, 1978 in express terms or impliedly. MW-1 did not state before me that the management had extended the period of probation of worker lady after 11th October, 1978. In the letter of appointment, I do not find any clause, that if the confirmation letter is not given, the workman shall remain a probationer during 12

months. MW-1 has also admitted that no warning in writing was issued to the workman and that she was on duty upto 11th December, 1978. The management received a complaint in writing on 11th December, 1978 morning. She was warned then and there and she was removed from service in the evening. Such hasty action on the part of the management that they received complaint in the morning, warned the worker lady, removed her services in the evening, casts doubt in the bona fide intention. As per the discussion of Standing Orders and letter of appointment, I come to the conclusion that the worker lady had become permanent on 12th October, 1978. Her extended period of probation after 11th January, 1978 was not further extended. Although there is no letter of the management on the file to confirm the worker lady but as a result of combined reading of letter of appointment and Standing Orders and especially Clause No. 2 thereof and their effect and as a result of operation of law and the contract witnessed in the letter of appointment and Standing orders, the worker lady got confirmed on 12th October, 1978. The management did not remove her during the period of probation. Exhibits M-3 and M-4 which are said to be warning letters bear no date at all and their subject is so general that they can be imputed to any date. I fail to understand the reason as why the management did not put the date of issue of these warning letters. Reading of these two letters together with the statement of MW-1, also causes doubt on the bona fide decision of the management that the work of the worker lady was unsatisfactory. Moreover when the worker lady got confirmed on 12th October, 1978, she could not be removed from service on the basis of complaint without enquiring into correctness, truthfulness of the complaint. From the discussion as above the termination of services of the worker lady is not found justified. In the circumstances, of the case as given above, I decide issue No. 2 against the management. While answering the reference, I give my award that the termination of services of the worker lady was neither justified, nor in order. She is entitled to reinstatement with continuity of service and with full back wages.

Dated, the 11th February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 139, dated the 14th February, 1980.

Forwarded (cour copies) to the Secretary to Government Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

The 11th March, 1980

No. 11(112)-3Lab-80/4199.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workmen and the management of M/s. Elson Cotton Mills (P) Ltd. Ballabgarh.

**BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL
HARYANA FARIDABAD.**

Reference No. 130 of 1974

between

THE WORKMEN AND THE MANAGEMENT OF M/S. ELSON COTTON MILLS (P) LTD. BALLABHGARH.

Present:

Shri Amar Singh Sharma, for the workmen.

Shri R. N. Rai, for the management.

AWARD

1. By order No. ID/FD/31161-65 dated 11th September, 1974 the Governor of Haryana referred the following dispute between the management of M/s. Elson Cotton Mills (P) Ltd. Ballabgarh and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act.

Whether the workmen are entitled to sick leaves with wages? If so, with what details?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 2nd December, 1975:

- (1) Whether the demand raised by the workmen on the management giving rise to this reference has been espoused by the requisite number of workmen?
- (2) Whether the reference is bad in law on the ground as stated by way of preliminary objection in the written statement?
- (3) Whether this Tribunal has jurisdiction to grant the relief prayed for by the workmen?
- (4) Whether the workmen are entitled to sick leaves with wages? If so, with what details?

And the case was fixed for arguments on issues number 2 & 3 which were pure questions of law. The parties had argued on issue number 4 also. They prayed that issue No. 1 may also be decided first. It transpired that issue number 4 required evidence. The representative for the workmen also prayed that he shall give evidence on issue No. 1. Then the case was fixed for the evidence of the parties on issue No. 1 on 28th February, 1977. Issues No. 2 and 3 were also fixed for arguments. The workmen obtained six adjournments and then examined Shri Amar Singh Sharma, President Textile Association as WW 1. He produced Exhibit W 1 signed and thumb marked by the workmen. He stated that there was a meeting of the workman signatories to Exhibit W 1. They had resolved to favour the dispute and they had given him Exhibit W-1 at that time. The workmen had given two letters of authority at that time, out of which one had been filed before the Conciliation Officer together with the demand notice. In cross examination WW 1 admitted that Exhibit W 1 is not a resolution, rather it is a letter of authority

which was executed at the time when demand notice was sent on raising the demand. He further admitted that the demand notice was given by the President. He also stated that the demand notice did not bear his signatures but of the then President of the union. He also admitted that when Exhibit W 2, the demand notice, was given, there was another union of the workmen of the management which was registered one. And he was a legal Secretary in that union. He did not bring any record of the union. He stated that before giving the demand notice, a meeting of the union was held and resolution was passed a day before the demand notice. He admitted that there were registers, minute books and some other records of the union but he could not bring any. He also stated that there were 300 workmen of the management who were the members of the union when the demand notice was given and about 150-200 workmen of the management had attended that meeting. Resolution was signed by the workmen and was not sent to the Conciliation Officer. The resolution contained the demands under this reference. Other demands were not referred to the Tribunal. He denied that he was not connected with that union in any capacity and he has procured Exhibit W 1, the letter of authority, to sustain the demands before the Tribunal. He denied that he had fabricated Exhibit W 1. He also denied that Exhibit W 1 was not in existence at the time when the demands were raised or much prior to the date he was examined. He also admitted that the union existed even on the day of his evidence and was still legal Secretary of that union. The workman closed his case. Then the case was fixed for the evidence of the management who examined their Assistant as MW 1 who had brought the summoned records. He stated that Elson Cotton Mills Mazdoor Union was registered on 14th June, 1971 under registration number 166. He also referred some clauses of the constitution of the union regarding election and the office bearers. He also brought a letter written from the union to the management giving the names of the office bearers as per the election held on 28th May, 1972. In that

letter the name of Shri Amar Singh Sharma finds no place, neither as legal secretary, nor in any capacity. From the file of the management he deposed that there is no information from the union to their office regarding election and office bearers for the year 1973. He stated that that union was still functioning. The management also examined their Factory Manager who stated that Shri Amar Singh Sharma WW 1 did not send any letter to the management. He also stated that the strength of the workmen in 1973 was 500. He also stated that 30-35 workmen out of the signatories to Exhibit W 1 were in their employment at that time and the rest were not employees of their factory. He also stated that Exhibit W 1 contained some duplicate signatures which he could point out.

3. I have considered the evidence on the file oral as well as documentary. Documentary evidence is only Exhibit W 1, the letter of authority which has only authorised Shri Amar Singh Sharma to act and appear in the above dispute. It bears no date. No resolution, or minute book of the union have been produced. Moreover as per election held in the year 1972, Shri Amar Singh Sharma is not described as holding any office of the union, also he was described to be the legal secretary for the year 1974. The demand notice is dated 15th October, 1973. In Exhibit W 1 even the dispute has not been mentioned. I do not find espousal of the demand. I, therefore, decide issue No. 1 against the workmen.

ISSUE NO. 2, 3 and 4:

In view of my decision on issue No. 1 issues No. 2, 3 and 4 have become redundant and need not give any decision. While answering the reference, I give my award that the demand forming the dispute under reference has not been properly espoused and hence there is not a

valid and legal dispute before me, properly espoused by the workmen. However this award shall not bar the workmen to raise the demand again after proper espousal.

The 29th February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana Faridabad.

No. 226, dated the 7th March, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana; Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana Faridabad.

No. 11(112)-3Lab.-80/4205.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Onyx Industries, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD,

Reference No. 251 of 1974.
between

THE WORKMEN AND THE MANAGEMENT OF
M/s. ONYX INDUSTRIES, MATHURA ROAD,
FARIDABAD.

Present :

Shri Bhim Singh Yadav, for the workmen.
Shri R. C. Sharma, for the management.

AWARD

1. By order No. ID/FD/74/40145-49, dated 16th December, 1974, the Governor of Haryana referred the following disputes between the management of M/s. Onyx Industries, Mathura Road, Faridabad and its workmen, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act.

1. Whether the workmen should be supplied uniforms ? If so, with what details ?
2. Whether the workmen are entitled to the grant of dearness allowance ? If so, at what rate and with what details ?
3. Whether the workmen are entitled to bonus for the year 1973-74 ? If so, with what details ?
4. Whether the termination of services of Sarvshri Triloki Nath, Puran Chand and Chhote Lal is justified and in order ? If not, to what relief they are entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed by my learned predecessor on 11th June, 1975:—

1. Whether the Faridabad Engineering Workers Union has locus standi to raise the dispute on behalf of the workmen concerned ? If not with what effect ?
2. Whether the demands on the subject matter of the present reference had been first raised on the management and rejected by it before taking up the matter in conciliation ? If not, with what effect ?
3. Whether the present dispute is barred by an existing settlement, dated 10th September, 1973 under section 12(3) of the Industrial Disputes Act between the management and the workmen ?
4. Whether the workmen are entitled to bonus for the year 1973-74 ? If so, with what details ?
5. Whether the termination of services of Sarvshri Triloki Nath, Puran Chand and Chhote Lal is justified and in order ? If not, to what relief they are entitled ?

And the case was fixed for adducing evidence on issues No. 1, 2 and 3 first. Vide my separate order, dated 18th January, 1978. I decided issues No. 1, 2 and 3 and fixed the case for the

evidence of the workmen. Thereafter the workmen examined Shri Dharam Dev, a workman as WW-3 and obtained adjournment for adducing their remaining evidence. The workmen obtained 14-15 adjournments for adducing their remaining evidence, but adduced nil. Lastly a settlement was arrived at between the parties. The parties agreed that if the management paid a sum of Rs. 2,000 to each workman named in dispute No. 44, and pay bonus for the year 1973-74 at which they have granted to other workmen, the dispute shall come to an end. The representative for the management agreed. The parties prayed that award be given in terms of the said settlement. I, therefore, give my award as follows:—

ISSUE NO. 1

There is no dispute regarding supply of uniforms. This demand is barred by a previous settlement.

ISSUE NO. 2

The workmen are not entitled to grant of dearness allowance, the demand being barred by settlement.

ISSUE No. 3

The workmen named in dispute No. 3 shall also be paid bonus for the year 1973-74 at which the management had paid it to other workmen. Other workmen have been paid bonus for the year 1973-74 and there is no dispute regarding payment of bonus to other workmen.

ISSUE No. 4

The workmen named in dispute Sarvshri Triloki Nath, Puran Chand and Chhote Lal are entitled to a sum of Rs. 2,000 each from the management. The management shall pay Rs. 2,000 to each of the abovesaid workmen, totalling Rs. 6,000 to all the three said workmen. On payment of the said sum to the said workmen termination of services of the said persons shall be deemed as justified and in order and they shall not be entitled to any other relief.

Dated the 28th February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. _____ dated _____

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment

Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

Dated the 28th February, 1980.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3Lab-80/4265.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of dispute between the workman and the management of M/s. P.H. & H.P. Area Canteen, Near Defence Cinema, Ambala Cantt.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER,
LABOUR COURT, ROHTAK.

Reference No. 173 of 1979

SHRI MELA SINGH, WORKMAN AND
THE MANAGEMENT OF M/S. P.H. &
H.P. AREA CANTEEN, NEAR DEFENCE
CINEMA, AMBALA CANTT.

Present.—

Shri Rajeshwar Nath, for the workman.

No one for the respondent management.

AWARD

This reference has been made over to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/Amb/132-79/41020, dated 18th September, 1979 under section 10(1)(c) of the Industrial Disputes Act for adjudication of the dispute existing between the workman Shri Mela Singh and the management of M/s. P.H. & H.P. Area Canteen, Near Defence Cinema, Ambala Cantt. The terms of the reference was whether the termination of the service of Shri Mela Singh was justified and in order? If not, to what relief he is entitled.

On receipt of the order of reference notices as usual were sent to the parties for 26th November, 1979. The workman appeared along with his authorised representative and filed his claim statement and the registered letter by which the service on the management was sought to be effected has been received back with the endorsement refused and fresh notice was sent to the management through Senior Sub Judge, Ambala City for 30th November, 1979. The summons so sent through Senior Sub Judge, Ambala City were also refused and the refusal report is attached with the reference file No. 175/79. I passed *ex parte* order against the management and the case was fixed for *ex parte* evidence of the workman to be taken on 21st December, 1979. On that date of hearing *ex parte* evidence of the workman was recorded. The workman was examined as his own witness. In his statement the workman reiterated that he worked in the P.H. & H.P. Area Canteen, Ambala Cantt. as Accountant from 1st January, 1968. The management terminated his services on 1st June, 1977 without assigning any reason or serving with any charge-sheet nor any enquiry was held. At the time of his termination the workman was getting Rs. 505 as his monthly salary. The management has given him the appointment letter, but that is not in his possession. He further stated that he is idle since the termination by the management and he could not get any service inspite of his best efforts. He has not been paid any retrenchment compensation by the management and he has further prayed that he should be reinstated with continuity of service and with full back wages. One more witness Shri Kesar Singh, son of Shri Bishan Singh was also examined on behalf of the workman. He stated

that he knew the workman Shri Mela Singh who was his co-worker in the service of the respondent management. The management terminated his services along with Shri Mela Singh who was working as Accountant.

In the above circumstances the management did not choose to defend themselves against the claim of the workman. The statements of the workmen WW 1 and WW 2 in support of the workmen evidence made on oath to be believed more so when they are made *ex parte* and in view of their statement it is obvious that the management terminated his services without observing the principles of natural justice and the same is therefore, unjustified and not in order and hence is set aside. The workman is therefore, entitled to reinstatement with continuity of service and with full back wages. I answer the reference while returning the same in these terms.

Dated 26th February, 1980.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 650, dated the 7th March, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Rohtak.